

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALFRONSO CARRANZA

Petitioner,

No. C 08-2511 PJH (PR)

vs.

ORDER TO SHOW CAUSE

ROBERT AYERS, JR., Warden,

Respondent.

Petitioner, a California prisoner currently incarcerated at San Quentin State Prison, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the filing fee.

The petition attacks denial of parole, so venue is proper in this district, which is where petitioner is confined. See 28 U.S.C. § 2241(d).

BACKGROUND

A Los Angeles County jury convicted petitioner of second-degree murder, attempted murder, and attempted manslaughter with use of a gun. He was sentenced to prison for seventeen years to life. He alleges that he has exhausted these parole claims by way of state habeas petitions.

DISCUSSION

A. Standard of Review

This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet

heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state court must “specify all the grounds for relief which are available to the petitioner ... and shall set forth in summary form the facts supporting each of the grounds thus specified.” Rule 2(c) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254. “[N]otice’ pleading is not sufficient, for the petition is expected to state facts that point to a ‘real possibility of constitutional error.’” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir. 1970). “Habeas petitions which appear on their face to be legally insufficient are subject to summary dismissal.” *Calderon v. United States Dist. Court (Nicolaus)*, 98 F.3d 1102, 1108 (9th Cir. 1996) (Schroeder, J., concurring).

B. Legal Claims

As grounds for federal habeas relief, petitioner asserts that: (1) the denial was not supported by “some evidence”; (2) the Board’s failure to apply its own matrix and follow state law violated due process; and (3) the Board’s reliance on the fact that there were multiple victims as grounds to deny parole for four years violated petitioner’s double jeopardy rights.

These claims are sufficient to require a response. See *McQuillion v. Duncan*, 306 F.3d 895, 904 (9th Cir. 2002) (due process requires that at least “some evidence” support parole denial).

CONCLUSION

For the foregoing reasons and for good cause shown,

1. The clerk shall serve by certified mail a copy of this order and the petition and all attachments thereto on respondent and respondent’s attorney, the Attorney General of the State of California. The clerk also shall serve a copy of this order on petitioner.

2. Respondent shall file with the court and serve on petitioner, within sixty days of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be

1 granted. Respondent shall file with the answer and serve on petitioner a copy of all
2 portions of the state trial record that have been transcribed previously and that are relevant
3 to a determination of the issues presented by the petition.

4 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with
5 the court and serving it on respondent within thirty days of his receipt of the answer.

6 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an
7 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
8 Section 2254 Cases. If respondent files such a motion, petitioner shall file with the court
9 and serve on respondent an opposition or statement of non-opposition within thirty days of
10 receipt of the motion, and respondent shall file with the court and serve on petitioner a reply
11 within fifteen days of receipt of any opposition.

12 4. Petitioner is reminded that all communications with the court must be served on
13 respondent by mailing a true copy of the document to respondent's counsel. Petitioner
14 must keep the court informed of any change of address and must comply with the court's
15 orders in a timely fashion. Failure to do so may result in the dismissal of this action for
16 failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). See *Martinez v.*
17 *Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

18 **IT IS SO ORDERED.**

19 Dated: May 21, 2008.



PHYLLIS J. HAMILTON
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ALFONSO CARRANZA,
Petitioner,

Case Number: CV08-02511 PJH

CERTIFICATE OF SERVICE

v.

ROBERT AYERS JR.,
Respondent.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 21, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Alfonso Carranza E-30803
San Quentin State Prison
3-N-96L
San Quentin, CA 94974

Dated: May 21, 2008



Richard W. Wieking, Clerk
By: Nichole Heuerman, Deputy Clerk

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455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102

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James D. [Signature]

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Warden
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San Quentin, CA 94964

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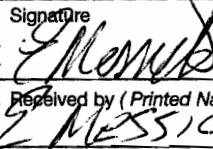
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